

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 9052**

October 27, 2021

**SUMMARY OF BILL:** Establishes the following as unlawful discriminatory practices under the *Tennessee Human Rights Act*, when based on a person's COVID-19 vaccination status: a person refusing a person a service, good, facility, advantage, license, healthcare access, or employment opportunity; an employer refusing employment, barring employment, or discriminating against a person in compensation or condition of employment; a place, store, or establishment that solicits or accepts the patronage of the general public excluding, segregating, refusing to serve, or discriminating against a person.

Establishes that these prohibitions do not apply to vaccination requirements for a school, nursery, kindergarten, preschool, or child care facility. Excludes healthcare facilities from unlawful discrimination violations if the facility asks employees to volunteer vaccination status to determine if the facility should implement reasonable accommodation to protect the safety and health of employees, patients, and visitors, and implements such measures.

Prohibits an individual from being required to receive a COVID-19 vaccination that is allowed due to an emergency use authorization or is undergoing clinical trials. Exempts nursing homes or assisted-care living facilities from compliance with these provisions if compliance would violate regulations issued by the federal Centers for Medicare and Medicaid Services or the federal Centers for Disease Control and Prevention.

Authorizes the Tennessee Human Rights Commission (THRC) to impose a civil penalty of \$5,000 for each discriminatory practice violation.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$23,700/FY21-22**

**/Tennessee Human Rights Commission**

**\$47,400/FY22-23 and Subsequent Years**

**/Tennessee Human Rights Commission**

**Assumptions:**

- The addition of discriminatory practices under the *Human Rights Act* is estimated to significantly increase the number of phone calls, online complaint submittals, and case processing on behalf of the THRC.

- The THRC will require an additional Intake Specialist, or Administrative Services Assistant 3, for the volume of contact estimated to generate from the proposed legislation.
- A recurring increase in state expenditures to the THRC of \$47,424 (\$34,884 salary + \$12,540 benefits).
- The proposed legislation is effective upon becoming a law. It is assumed the THRC would fill the position on January 1, 2022. The FY21-22 increase in expenditures will be half of future fiscal years, or \$23,712 (\$47,424 x 50.0%).
- An increase in state expenditures of \$47,424 in FY22-23 and subsequent years.
- There is not estimated to be a significant increase in caseloads; therefore, any impact to the state or local court system is estimated to be not significant.
- There is not estimated to be a significant increase in civil penalties filed on behalf of the THRC; therefore, no significant increase in revenue or expenditures.
- The U.S. Supreme Court issued a ruling in February 20, 1905, *Jacobson v. Massachusetts*, upholding the right of states to compel vaccination.
- Each state decides which vaccines are required based on recommendations from the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP).
- Immunization or vaccination for COVID-19 is currently not required by any state or local governmental entity in Tennessee. Prohibiting any such future requirement will not result in a significant fiscal impact to the state or local government.
- If the proposed legislation prohibits a state or local entity or private business from following any future federal vaccination mandate, federal funding could be jeopardized.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/ar